

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

KERRIE SMITH

PLAINTIFF

v.

CIVIL ACTION NO. 3:20-cv-11-NBB-RP

HWCC-TUNICA, LLC, ET AL.

DEFENDANTS

ORDER

Plaintiff's Complaint was removed to this Court on January 7, 2020. Docket 1. Under Federal Rule of Civil Procedure 4(m), Plaintiff had until April 6, 2020, to serve Defendant Rasheed Abdullah after filing the Complaint. On April 13, 2020, the court entered a Show Cause Order instructing Plaintiff to show cause why the instant action should not be dismissed against Rasheed Abdullah for Plaintiff's failure to perfect service of process within the 90-day time period set forth in Federal Rule of Civil Procedure 4(m). Docket 35. Plaintiff was advised that failure to establish good cause for her failure to timely serve Rasheed Abdullah would result in dismissal of said defendant from this action. Docket 35.

Federal Rule of Civil Procedure 4(m) dictates "[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m). To establish good cause for failure to timely serve defendants, Plaintiff "must demonstrate at least as much as would be required to show excusable neglect, as to which simple inadvertence or mistake of counsel or ignorance of the rules usually does not suffice." *Sys. Signs Supplies v. U.S. Dep't of Justice, Washington, D.C.*, 903 F.2d 1011, 1013 (5th Cir. 1990) (quoting *Winters v. Teledyne Movable Offshore, Inc.*, 776 F.2d 1304, 1306 (5th Cir.1985)). Additionally, Plaintiff is required to "make a showing of good faith and establish

some reasonable basis for noncompliance within the time specified.” *Id.* (quoting 4A C. Wright & A. Miller, Federal Practice and Procedure § 1165, at 480 (2d ed. 1987)).

Plaintiff failed to respond to the Court’s Show Cause Order and, therefore, Defendant Rasheed Abdullah is **DISMISSED** without prejudice.

SO ORDERED, this the 1st day of May, 2020.

/s/ Neal Biggers

NEAL B. BIGGERS, JR.

UNITED STATES DISTRICT JUDGE